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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

July 16, 1993

By Hand Delivery

Mr. William F. Caton

Acting Secretary

Federal Communications Commission

Washington, D.C. 20554

OUR FILE NO.

0992-102-60

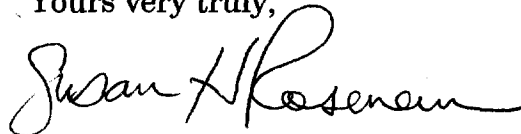
RE: MM Docket No. 93-42, Calistoga, California

Dear Mr. Caton:

On behalf of Moonbeam, Inc., an applicant (File No. BPH-911115MG) for a New FM Station on Channel 265A in Calistoga, California, please find the original and six copies of its Response to Opposition to Witness Notification in the above-referenced proceeding.

Kindly communicate any questions directly to this office.

Yours very truly,



Susan H. Rosenau

Enclosures (6)

cc: Moonbeam, Inc.
Robert Zauner, Esquire
A. Wray Fitch, Esquire
Administrative Law Judge Edward Luton

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Before The
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications Of)	Docket No. MM 93-42
)	
MOONBEAM, INC.)	File No. BPH-911115MG
)	
GARY E. WILLSON)	File No. BPH-911115MO
)	
For a Construction Permit for a)	
New FM Station on Channel)	
265A in Calistoga, California)	

To: The Honorable Edward Luton
Administrative Law Judge

**Response to Opposition to
Witness Notification**

Pursuant to Section 1.248 of the Commission's Rules, Moonbeam, Inc. ("Moonbeam"), by its attorneys, respectfully responds to the Opposition to Witness Notification filed by Gary Willson ("Willson") on July 14, 1993, stating in support thereof as follows:

1. Willson has requested cross-examination of Mary F. Constant. See Witness Notification of Gary Willson, served July 9, 1993.

2. Section 1.248(d)(4) provides that "oral testimony and cross examination will be permitted only where, in the discretion of the presiding judge, material issues of decisional fact cannot be resolved without oral evidentiary hearing procedures or the public interest otherwise requires oral evidentiary proceedings." 47 C.F.R. §1.248(d)(4).

3. The foregoing rule does *not* provide for oral evidentiary proceedings limited to the specific parties and issues where need has been shown; once a material issue of decisional fact requiring hearing has been raised in a proceeding, a hearing with respect to *all* designated issues must be had, except those disposed of by motion for summary decision. In other words, the rule does not provide for one party's case to be submitted orally and the other parties' cases submitted in written form. The Presiding Officer must either conduct an oral hearing as to all parties or decide with respect to all parties based on the parties' written cases. Any other interpretation would violate the Due Process rights of the parties.

4. In any event, Moonbeam has a need to cross-examine Willson in this matter. Willson has, as recently as July 14, 1993, sought to comparatively upgrade his integration statement, see Erratum to Direct Case Exhibit No.1, filed July 14, 1993, to reflect new and additional civic activities. Moonbeam requires an opportunity to determine the extent to which these activities pre-dated Willson's application and the extent to which his participation in these activities is genuine, both of which are material issues of decisional fact.

5. Further Willson has throughout this proceeding sought credit



Moonbeam requires an opportunity to probe Willson's credibility

As the company's CEO, Willson has a duty to disclose any material information that could affect the company's stock price.

CERTIFICATE OF SERVICE

The undersigned, an employee of Haley, Bader & Potts, hereby certifies that the foregoing Response to Opposition to Witness Notification was mailed this date by First Class U.S. Mail, postage prepaid, or was hand-delivered*, to the following:

A. Wray Fitch, III, Esquire
Gammon & Grange
8280 Greensboro Drive
McLean, VA 22102-3807

Administrative Law Judge Edward Luton
2000 L Street N.W.
Washington, D.C. 20036

Robert Zauner, Esquire*
Federal Communications Commission
Mass Media Bureau, Hearing Branch
Suite 7212
2025 M Street N.W.
Washington, D.C. 20554

A handwritten signature in cursive script, reading "Lucy S. Santrape", written over a horizontal line.

July 16, 1993